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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,649	03/25/2004	Earl David Forrest	60137-238; 445-3115-U	7491

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EXAMINER

JACKSON, ANDRE L

ART UNIT PAPER NUMBER

3677

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/809,649

Applicant(s)

FORREST ET AL.

Examiner

Andre' L. Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,5-10 and 12-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5-10 and 12-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

*DETAILED ACTION*

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 3,430,994 to Keeler. Keeler discloses an operating handle knob comprising;

an operating handle knob (32) having an inner bore (36), the inner bore being non-cylindrical; an intermediate member (10) having an inner bore (12) to receive a shaft (42) from a control valve, the intermediate member having a non-cylindrical outer periphery; and the non-cylindrical bore and the non-cylindrical outer periphery mating to provide a contact surface such that rotation of the operating handle knob rotates the intermediate member, the contact surface includes three lobes (16, 18, 20) extending from one of the knob and intermediate member, and three notches (116, 118, 120) formed in the other of the knob and the intermediate member; the intermediate member has the three lobes extending from the outer periphery that fit into the three notches formed in the bore of the knob; and the intermediate is generally A-shaped as seen in Fig. 5.

As to claims 5 and 6, the intermediate member has a central apex lobe (20) and two side lobes (16, 18) wherein the apex lobe being generally stiffer than the side lobes due to a slot (14) between the side lobes.

As to claims 7, 8 and 9, the lobes have split ends extending from the outer periphery of the intermediate member and separated by separate concave channel. As seen in Fig. 1, the lobes include a ribbed outer surface (space between each set (16-16'; 18-18'; 20-20')), with side ribs at lobes (16, 18) extending circumferentially outwardly of a central leg portion and a forward rib at (20) extending forwardly of the central leg portion. As seen in Fig. 1 and 5, the spacing of the side lobes are space by an angle that is greater than an angle spacing of the corresponding notches in the bore of the knob due to the slot, such that there is a spring force applied to the side lobes when received in their respective notches.

Claims 10 and 12-20 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 3,430,994 to Keeler. Keeler discloses an operating handle comprising;

a knob (32) having a particular appearance, and a bore (36) with an inner periphery that is non-cylindrical; and a plurality of intermediate members (10, 130), the intermediate members each having a central bore (12) designed to receive a dimmer switch shaft, the intermediate members having a non-cylindrical outer periphery, the non-cylindrical bore and non-cylindrical outer periphery mating to provide a contact surface such that rotation of the knob rotates the intermediate member, the contact surface includes a plurality of lobes (16, 18, 20) generally A-shaped extending from the intermediate member that fit into a plurality of notches (116, 118, 120) formed in the knob.

As to claims 14 and 15, the intermediate member has a central apex lobe (20) and two side lobes (16, 18) wherein the apex lobe being generally stiffer than the side lobes due to a slot (14) between the side lobes.

As to claims 16-18 and 20, the lobes have split ends extending from the outer periphery of the intermediate member and separated by separate concave channel. As seen in Fig. 1, the lobes include a ribbed outer surface (space between each set (16-16'; 18-18'; 20-20'), with side ribs at lobes (16, 18) extending circumferentially outwardly of a central leg portion and a forward rib at (20) extending forwardly of the central leg portion. As seen in Fig. 1 and 5, the spacing of the side lobes are space by an angle that is greater than an angle spacing of the corresponding notches in the bore of the knob due to the slot, such that there is a spring force applied to the side lobes when received in their respective notches.

### ***Response to Applicant's Arguments***

In response to applicant's arguments presented in the request for reconsideration on page 7 of the Amendment filed on January 30, 2006, is found not to be persuasive. In particular, applicant argues that the prior art reference of Keller includes an operating handle or knob for an appliance or appliances. As to the contrary, applicant's invention includes a dimmer switch knob for an electrical switch. In response to this argument it has been held that function follows form in an anticipation rejection: *In re Schreiber*, 128 F.3d 1473, 44 USPQ2d 1429 (Fed. Cir. 1997)(aff'g PTO).

The court's decision illustrated the risks an applicant takes by defining the claimed invention in functional language. The Office rejected claims directed to a funnel top for a popcorn container as anticipated by a funnel top for an oil can, noting that the oil funnel could perform the same function of dispensing popcorn. Schreiber argued that an oil can funnel was not a proper reference for rejecting a popcorn dispensing funnel, since they are in completely

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different fields of endeavor. The court affirmed the Office, noting that analogous art is not a consideration for anticipation. Since the oil can funnel was inherently capable of dispensing popcorn and all the other limitations were met, the anticipation rejection was proper.

Thus, the Examiner believes the operating handle or knob of Keller is inherently capable of dimming a light of a light switch and since Keller meets all other structural limitations explained in this Action above, the anticipation rejection of Keller in view of applicant's claims as presented is proper.

Accordingly, claims 1, 5-10 and 12-20 remain rejected as being unpatentable over Keller.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (571) 272-7067.

The examiner can normally be reached on Mon. - Fri. (9:30 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson  
Patent Examiner  
AU 3677

ALJ

  
**ROBERT J. SANDY**  
**PRIMARY EXAMINER**